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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/659,128	09/10/2003	David G. Therrien	25452-016	3561

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EXAMINER

CHUNG, PHUNG M

ART UNIT	PAPER NUMBER
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2138

DATE MAILED: 06/01/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/659,128	Applicant(s) THERRIEN ET AL.	
	Examiner Phung My Chung	Art Unit 2138	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 March 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-3 and 12 is/are allowed.
- 6) ☒ Claim(s) 1,11,13 and 14 is/are rejected.
- 7) ☒ Claim(s) 5-10 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

2. Claims 4 and 13-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gerbault et al (6,324,661).

Gerbault et al disclose a method for managing integrity faults, comprising:

Performing a content checksum of a file in a first repository node to obtain a first checksum and storing the first checksum in the first repository node (col. 4, lines 13-21);

Re-performing the content checksum on the file to obtain a second checksum (col. 4, lines 25-27) and comparing the second checksum with the first checksum (col. 4, lines 27-29); and

If the second checksum does not equal the first checksum, then recovering the file by on-line interchange (abstract, col. 4, lines 43-47). Gerbault et al do not disclose recovering a copy of the file from another repository node. However, it would have been obvious to a person of ordinary skill in the computer testing art, at the time the invention was made, to interchange or replace the erroneous portion with a copy of another non-erroneous portion of another repository node as needed if desired so that error can be corrected.

As per claims 13-14, these claims rejected under similar rationale as set forth in claim 4.

3. Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Gerbault (6,324,661) as applied to claim 4 above, and further in view of Hoff et al.

Claim 11, the teaching of Gerbault has been discussed above. Gerbault does not disclose wherein the checksum is an MD5 checksum. However, Hoff et al disclose the checksum is an MD5 checksum (223). Therefore, it would have been obvious to a person of ordinary skill in the art, at the time the invention was made, to incorporate the MD5 checksum as taught by Hoff et al into the invention of Gerbault so that it can be used to perform efficient equality checks between file nodes (col. 6, lines 41-49).

4. Claims 5-10 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.
5. Claims 1-3 and 12 are allowable.

6. Applicant's arguments filed on 3/13/06 have been fully considered but they are not persuasive because:


7. Applicant argues that Gerbault does not describe that if two checksums are not the same, then recovering a copy of the file from another repository node.

Examiner disagrees with applicant because Gerbault et al disclose If the second checksum does not equal the first checksum, then recovering the file by on-line interchange (abstract, col. 4, lines 43-47). Gerbault et al do not disclose recovering a copy of the file from another repository node. However, it would have been obvious to a person of ordinary skill in the computer testing art, at the time the invention was made, to interchange or replace the erroneous portion with a copy of another non-erroneous portion of another repository node as needed if desired so that error can be corrected.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Phung My Chung whose telephone number is 571-272-3818. The examiner can normally be reached on Monday to Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Albert Decady can be reached on 571-272-3819. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Phung My Chung
Primary Patent Examiner
Art Unit 2138